

**THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
YELLOW CORPORATION, <i>et al.</i> ,	:	Case No. 23-11069 (CTG)
	:	(Jointly Administered)
Debtors.	:	
	:	Related to Docket No. 968

**LIMITED OBJECTION OF 445 HOLLYWOOD AVENUE LLC TO
NOTICE OF POTENTIAL ASSUMPTION OR ASSUMPTION AND ASSIGNMENT OF
CERTAIN CONTRACTS OR LEASES ASSOCIATED WITH
THE NON-ROLLING STOCK ASSETS**

445 Hollywood Avenue LLC (“445 Hollywood”) hereby objects to Yellow Corporation, Inc.’s (“Debtor”) *Notice of Potential Assumption and Assignment of Certain Contracts or Leases Associated with the Non-Rolling Stock Assets* (“Cure Notice”) [Docket No. 968]. In support of this Limited Objection, 445 Hollywood represents, by and through its undersigned counsel, as follows:

Background

1. On or about August 6, 2023 (“Petition Date”), the above-captioned debtors and debtors-in possession (“Debtors”) filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (“Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware.

2. Prior to the Petition Date, YRC, Inc.¹ entered into a Lease Agreement with Hollywood Properties, LLC² on April 15, 2014, and subsequent renewals (the “Lease”), concerning a certain building and real property located at 445 Hollywood Avenue, South Plainfield, Middlesex County, New Jersey (the “Property”).

3. Prior to the Petition Date, YRC, Inc. materially breached certain provisions of the

¹ YRC, Inc., affiliated with Yellow Corporation, Inc., is a debtor-in-possession as defined in Paragraph 1.

² Hollywood Properties, LLC is the prior owner of the Property. 445 Hollywood has succeeded to the rights of Hollywood Properties, LLC with respect to ownership of the Property and the Lease.

Lease, including Section 3 of the Lease by failing to pay the rent payment due on August 1, 2023 and Section 4 of the Lease by failing to pay real estate taxes on the Property for the third quarter of 2023. In addition, 445 Hollywood is entitled to attorneys' fees and expenses pursuant to Section 14 of the Lease.

4. In addition, subsequent to the Petition Date, YRC, Inc. has failed to provide 445 Hollywood with proof of continuous insurance from the Petition Date through at least the date of any assumption and assignment as required under Section 22 of the Lease with respect to building, personal property, and general liability coverage.

5. On September 15, 2023, this Bankruptcy Court entered an *Order (I)(A) Approving the Bidding Procedures for the Sale or Sales of the Debtors' Assets; (B) Scheduling Auctions and Approving the Form and Manner of Notice Thereof; (C) Approving Assumption and Assignment Procedures; (D) Scheduling Sale Hearings and Approving the Form and Manner of Notice thereof; (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignments of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* [Docket No. 575] (the "Bidding Procedures Order") which approved the procedures by which the Debtors may solicit and pursue the sales of the Debtors' assets pursuant to 11 U.S.C. § 363.

6. In connection to the Bidding Procedures Order, the Debtors filed the Cure Notice, which identifies the Lease that 445 Hollywood entered into with YRC, Inc.

7. The cure amount for the Lease is listed on Schedule 1 of the Cure Notice as \$44,000.

Objection

8. The cure amount identified by the Debtors is inaccurate. Accordingly, 445 Hollywood objects to the Cure Notice.

9. “Cure is a critical component of assumption.” *In re Thane International, Inc.*, 586 B.R. 540, 549 (Bankr. D. Del. 2018). Specifically, Section 365(b) of the Bankruptcy Code requires a debtor to fully cure all defaults existing at the time of assumption before assuming an executory contract and provide adequate assurance of future performance under the contract. 11 U.S.C. § 365(b)(1).

10. The actual cure amount on the Lease is **\$63,401.25** (“Actual Cure Amount”). A copy of 445 Hollywood’s Amended Proof of Claim which includes the Lease is attached hereto as **Exhibit A**.

11. As for maintaining proper insurance coverage, the Debtors have, from the Petition Date until the below date, failed to provide 445 Hollywood with proof that the Property has been properly insured consistent with the Lease. Debtors must provide proof that the Property has and will continue to be insured pursuant to the terms set forth in Section 22 of the Lease, at least until the date of assumption and assignment of the Lease. Proof of uninterrupted insurance acceptable to 445 Landlord must be immediately provided to avoid post-petition default under the Lease and potential post-petition damages. In addition to paying the Actual Cure Amount, no “cure” can be made under the Lease without YRC, Inc. maintaining/obtaining appropriate, agreed upon, post-petition insurance under the Lease, along with providing proof of the same to 445 Hollywood.

12. Further, in connection with any assignment of the Lease, the Debtors are required to provide adequate assurance of future performance of the Lease as required pursuant to 11 U.S.C. § 365(f)(2)(B). To date, no assignee has been identified and no proof of adequate assurance has been provided to 445 Hollywood regarding same. Therefore, 445 Hollywood reserves its right to supplement this Limited Objection and to object to any potential assignment based on the failure to provide adequate assurance if an assignee is identified and the Lease is identified for assumption

and assignment.

Reservation of Rights

13. 445 Hollywood reserves its right to amend, supplement, and/or otherwise modify this objection and its cure claim, and to raise other and further objections to the assumption and assignment or cure amounts with respect to the Lease.

Conclusion

WHEREFORE, 445 Hollywood requests that this Court issue an Order (i) Denying the assumption and assignment of the Lease until such time as the Actual Cure Amount is paid to 445 Hollywood in full, the Debtors provide proof that insurance coverage consistent with the Lease has been maintained continuously from the Petition Date through any proposed assumption and assignment, and the Debtors and/or any successful bidder provide adequate assurance of future performance under the Lease, and (ii) granting to 445 Hollywood such other and further relief as is just and equitable.

Dated: November 9, 2023

**GELLERT, SCALI, BUSENKELL &
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